



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL**

**AMENDMENT NO. 003
RFP NO. B3Z05005
TITLE: Employee Drug and Alcohol Testing
ISSUE DATE: 09/30/04**

**REQ#: N/A
BUYER: Laura Ortmeier
PHONE NO.: (573) 751-4579
E-MAIL: laura.ortmeyer@oa.mo.gov**

AMENDMENT 003 EXTENDED THE CLOSING DATE

RETURN PROPOSAL NO LATER THAN: October 8, 2004 AT 2:00 PM

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Proposals must be in DPMM office (301 W High St, Rm 630) by the return date and time.

RETURN PROPOSAL AND AMENDMENT(S) TO:

**DPMM
P O BOX 809
JEFFERSON CITY MO 65102-0809**

or

**DPMM
301 WEST HIGH ST, RM 630
JEFFERSON CITY MO 65101**

CONTRACT PERIOD: January 1, 2005 through December 31, 2005

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

Various State Agency Locations

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all terms and conditions, requirements, and specifications of the original RFP as modified by this and any previously issued RFP amendments. The offeror should, as a matter of clarity and assurance, also sign and return all previously issued RFP amendment(s) and the original RFP document. The offeror agrees that the language of the original RFP as modified by this and any previously issued RFP amendments shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when this RFP amendment is countersigned by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

SIGNATURE REQUIRED

AUTHORIZED SIGNATURE		DATE	
PRINTED NAME		TITLE	
COMPANY NAME			
MAILING ADDRESS			
CITY, STATE, ZIP			
FEDERAL EMPLOYER ID NO.		SOCIAL SECURITY NO. IF FEDERAL EMPLOYER ID NO. NOT APPLICABLE	
PHONE NO.	FAX NO.		E-MAIL ADDRESS

NOTICE OF AWARD (STATE USE ONLY)

ACCEPTED BY STATE OF MISSOURI AS FOLLOWS:					
CONTRACT NO.		VENDOR NO.		CONTRACT PERIOD	
BUYER		DATE		DIRECTOR	

Employee Drug and Alcohol Testing

Contract Period: January 1, 2005 through December 31, 2005

RFP B3Z05005 is hereby amended and clarified as follows:

1. The proposal receipt date is hereby extended to October 8, 2004 in lieu of October 5, 2004.
2. The following items are hereby revised or added:

- 2.1.2.a
- 2.1.3
- 2.3.3
- 2.3.3 a.
- 2.3.4 (now 2.3.3 b.)
- 2.5.1
- 2.5.1 b.
- 2.7.1
- 2.7.2
- 2.8.1
- 2.8.1 a. 1)
- 2.11.6
- 2.12.2 b.
- 2.12.3 b.
- 3.4.1 a. through h. and m.
- 3.5.3
- 3.6.3 d., f., k., and p.
- Attachment #1

3. A listing of the collections sites currently being used is included herein as Attachment #4.
4. The following information is provided in response to questions received:

Question: Regarding item 2.9.2, is “legal consultation” a service that would be provided by a private attorney outside the scope of normal duties performed by the MRO, laboratory, SAP, and the contractor in the administration of the contract?

Answer: The contractor is responsible for the provision of the legal consultation services required by the state agency. The arrangement for the provision of the legal consultation (e.g. subcontractor, on-staff legal consultant, etc) is determined by the contractor. However, the offeror should specify the arrangement for the provision of the legal consultation services within the proposal.

Question: Regarding item 2.1.3, would these post-accident and/or pre-employment tests include both drug and alcohol? Would a five-panel drug test be used? Would MRO review be require for both positive and negative tests?

Answer: See item 2.1.3 as revised. As indicated in section 2.3, the drug testing shall be a five-panel drug screen. Also, item 2.8.1 requires the results of all tests be reviewed by an MRO.

Question: Regarding item 2.5.3, can the “courier specimen pick-up services” requirement be satisfied by the use of an express/ground courier’s prepaid Lab Pack that is picked up daily from the collection site?

Answer: Yes, if this is acceptable to the collection site.

Question: Regarding item 2.9.1, does the State currently have a vendor that provides an Employee Assistance Program (EAP) for state employees? If yes, can the EAP perform the SAP duties?

Answer: Yes, the state has a contract for an Employee Assistance Program. However, the contractor must provide the services of a substance abuse professional (SAP) in lieu of utilizing the state’s Employee Assistance Program.

Question: Regarding item 2.8.1 a. and b., will all state agencies use the test result report included as Attachment #2 or will they have a choice to use the contractor’s method of reporting results?

Answer: Test results submitted to the Missouri Department of Transportation must be submitted in the format specified on Attachment #2. For all remaining state agencies, the contractor and each individual state agency shall mutually determine the format and content of the test results

Question: Should the price for the five-panel drug screen (urine specimen) include the fees incurred by the collection site and the laboratory?

Answer: The price quoted must include all costs associated with providing the required service, including the costs and expenses incurred at the collection site and laboratory.

Question: Will each state agency be billed by the various collection sites for urine collection or will the contractor be billed by the collection sites and incorporate collection fees into each state agency’s billing statement?

Answer: The state agency does not make payment to the collection sites. All payments for services received will be made to the contractor.

Question: Will we be able to get the addresses of each agency and number of employees per location in order to verify and cost collection services on an overall basis? We do have total expected volume of each agency but it does make it more cost effective if we have the locations and at least the number of employees per location.

Answer: The information requested is not available. Please refer to the State of Missouri’s website (<http://www.missouri.gov/>) and the State of Missouri Official Manual (<http://www.sos.mo.gov/BlueBook/default.aspx>) for information related to the various state agencies of the State of Missouri and their employees and office locations.

Question: Do all state agency's contracts expire 12/31/04? Is there a level of expected participation at this time or in the past?

Answer: The current Drug and Alcohol Testing Services contract will expire December 31, 2004. The contract is available for use by any state agency of the State of Missouri. Attachment #1 provides information related to previous and anticipated usage.

Question: Does the in-service training to state agency staff regarding the collection process and procedures (see 2.5.3 b.) take place as part of the one-day (six hours) training workshop outlined in 2.7.1?

Answer: No these are two separate trainings. See the revision to 2.7.1.



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL**

AMENDMENT NO. 002

RFP NO. B3Z05005

TITLE: Employee Drug and Alcohol Testing

ISSUE DATE: 08/27/04

REQ#: N/A

BUYER: Laura Ortmeier

PHONE NO.: (573) 751-4579

E-MAIL: laura.ortmeyer@oa.mo.gov

AMENDMENT 002 EXTENDED THE CLOSING DATE

RETURN PROPOSAL NO LATER THAN: October 5, 2004 AT 2:00 PM

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Proposals must be in DPMM office (301 W High St, Rm 630) by the return date and time.

RETURN PROPOSAL AND AMENDMENT(S) TO:

**DPMM
P O BOX 809
JEFFERSON CITY MO 65102-0809**

or

**DPMM
301 WEST HIGH ST, RM 630
JEFFERSON CITY MO 65101**

CONTRACT PERIOD: January 1, 2005 through December 31, 2005

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

Various State Agency Locations

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NOTICE OF AWARD (STATE USE ONLY)

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CONTRACT NO.		VENDOR NO.		CONTRACT PERIOD	
BUYER		DATE		DIRECTOR	

Employee Drug and Alcohol Testing

Contract Period: January 1, 2005 through December 31, 2005

RFP B3Z05005 is hereby amended and clarified as follows:

1. The proposal receipt date is hereby extended to October 5, 2004 in lieu of September 30, 2004.



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL**

AMENDMENT NO. 001

RFP NO. B3Z05005

TITLE: Employee Drug and Alcohol Testing

ISSUE DATE: 09/17/04

REQ#: N/A

BUYER: Laura Ortmeyer

PHONE NO.: (573) 751-4579

E-MAIL: laura.ortmeyer@oa.mo.gov

AMENDMENT 001 EXTENDED THE CLOSING DATE

RETURN PROPOSAL NO LATER THAN: September 30, 2004 AT 2:00 PM

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Proposals must be in DPMM office (301 W High St, Rm 630) by the return date and time.

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DPMM

or

DPMM

P O BOX 809

301 WEST HIGH ST, RM 630

JEFFERSON CITY MO 65102-0809

JEFFERSON CITY MO 65101

CONTRACT PERIOD: January 1, 2005 through December 31, 2005

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

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BUYER		DATE		DIRECTOR	

Employee Drug and Alcohol Testing

Contract Period: January 1, 2005 through December 31, 2005

RFP B3Z05005 is hereby amended and clarified as follows:

1. The proposal receipt date is hereby extended to September 30, 2004 in lieu of September 23, 2004.



**STATE OF MISSOURI
OFFICE OF ADMINISTRATION
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT (DPMM)
REQUEST FOR PROPOSAL**

RFP NO. B3Z05005
TITLE: Employee Drug and Alcohol Testing
ISSUE DATE: 08/27/04

REQ#: N/A
BUYER: Laura Ortmeyer
PHONE NO.: (573) 751-4579
E-MAIL: laura.ortmeyer@oa.mo.gov

RETURN PROPOSAL NO LATER THAN: September 23, 2004 AT 2:00 PM

MAILING INSTRUCTIONS: Print or type **RFP Number** and **Return Due Date** on the lower left hand corner of the envelope or package. Proposals must be in DPMM office (301 W High St, Rm 630) by the return date and time.

RETURN PROPOSAL TO: DPMM or DPMM
P O BOX 809 301 WEST HIGH ST, RM 630
JEFFERSON CITY MO 65102-0809 JEFFERSON CITY MO 65101

CONTRACT PERIOD: January 1, 2005 through December 31, 2005

DELIVER SUPPLIES/SERVICES FOB DESTINATION TO THE FOLLOWING ADDRESS:

Various State Agency Locations

The offeror hereby declares understanding, agreement and certification of compliance to provide the items and/or services, at the prices quoted, in accordance with all requirements and specifications contained herein and the Terms and Conditions Request for Proposal (Revised 05/03/04). The offeror further agrees that the language of this RFP shall govern in the event of a conflict with his/her proposal. The offeror further agrees that upon receipt of an authorized purchase order from the Division of Purchasing and Materials Management or when this RFP is countersigned by an authorized official of the State of Missouri, a binding contract shall exist between the offeror and the State of Missouri.

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1. INTRODUCTION AND GENERAL INFORMATION

1.1 Introduction:

1.1.1 This document constitutes a request for competitive, sealed proposals for the provision of drug and alcohol testing services as set forth herein.

1.1.2 Organization - This document, referred to as a Request for Proposal (RFP), is divided into the following parts:

- 1) Introduction and General Information
- 2) Contractual Requirements
- 3) Proposal Submission Information, including requirements related to MBE/WBE participation
- 4) Pricing Page
- 5) Exhibits A - G
- 6) Attachment 1 – 3. Attachment #3 is a separate link that must be downloaded separately from the Division of Purchasing and Materials Management's Internet web site at: <https://www.moolb.mo.gov>. It shall be the sole responsibility of the offeror to obtain the attachment.
- 7) Terms and Conditions

1.2 **Pre-Proposal Conference:** A pre-proposal conference regarding this Request for Proposal will be held on Thursday, September 9, 2004 at 9:00 in Room 510 of the Harry S Truman Building, 301 West High Street, Jefferson City, Missouri.

1.2.1 All potential offerors are encouraged to attend this conference in order to ask questions and provide comments on the RFP. Attendance is not required in order to submit a response; however, offerors are encouraged to attend since information relating to this RFP will be discussed in detail. The offeror should bring a copy of the RFP since it will be used as the agenda for the pre-proposal conference.

1.2.2 Offerors may submit questions regarding the RFP prior to the Pre-Proposal Conference to allow time for the State of Missouri to prepare answers. However, the offeror should restate each question for verbal response during the Pre-Proposal Conference. Only those questions/answers which necessitate changes to the RFP will be included in an amendment, if any.

1.2.3 Offerors are strongly encouraged to advise the Division of Purchasing and Materials Management within five (5) working days of the scheduled pre-proposal conference of any special accommodations needed for disabled personnel who will be attending the conference so that these accommodations can be made.

1.3 Background Information:

1.3.1 The State of Missouri has previously contracted for drug and alcohol testing services through C301162001 which will expire on December 31, 2004. A copy of that contract can be viewed and printed from the Division of Purchasing and Materials Management's **Public Record Search and Retrieval System** located on the Internet at: <http://www.oa.mo.gov/purch/purch.htm>. In addition, all proposal and evaluation documentation leading to the award of that expiring/expired contract may also be viewed and printed from the Division of Purchasing and Materials Management's **Public Record Search and Retrieval System**. Please reference the Bid number B3Z01162 or the contract number C301162001 when searching for these documents.

2. CONTRACTUAL REQUIREMENTS

2.1 General Requirements:

- 2.1.1 The contractor shall provide drug and alcohol testing and related services for various state agencies of the State of Missouri in accordance with the provisions and requirements stated herein.
- 2.1.2 The contractor shall provide testing services to enable the requesting state agency's compliance with the Omnibus Transportation Employee Testing Act of 1991 (the "Act"), and its amendments, which mandates random drug and alcohol testing of state agency employees required to hold Commercial Driver's Licenses (CDLs). The contractor shall also provide testing for pre-employment, post-accident, reasonable suspicion, return-to-duty, and follow-up testing of state agency employees required to hold Commercial Driver's Licenses.

AMENDMENT 003 REVISED 2.1.2 a.

- a. The contractor shall adhere to the rules and regulations published under the Act found in 49 CFR 382 and 49 CFR Part 40 (<http://www.gpoaccess.gov/ecfr/>). The contractor shall agree and understand that any modifications to the federal rules and requirements shall be incorporated into the contract unless such modification is found to be contrary to Missouri law as determined by legal counsel for the State of Missouri.

AMENDMENT 003 REVISED 2.1.3.

- 2.1.3 At the request of the state agency, the contractor shall also conduct post-accident drug and alcohol testing for any state agency employee and pre-employment drug testing for any prospective or new hire employee which is within the legal parameters of the using state agency.
- a. The contractor shall perform such testing services in accordance with the using state agency's internal policy/procedure.
- 2.1.4 The contractor shall comply with all confidentiality requirements established in the Act and as otherwise stated herein. The contractor shall release the results of testing only to the state agency employee being tested and the state agency.
- 2.1.5 The contractor shall provide services on an as needed, if needed basis at any time 24 hours per day, seven days a week, including federal and state holidays as requested by the state agency. The contractor shall agree and understand that any state agency of the State of Missouri may participate in the contract, but that the contract does not require mandatory participation by any state agency.
- a. The contractor shall agree and understand that the contract shall not be construed as an exclusive arrangement and if it is in the best interest of the State of Missouri, a state agency may, at its own discretion, obtain alternate services elsewhere.
- 2.1.6 The contractor shall understand and agree that the State of Missouri does not guarantee a minimum or maximum number of tests. However, Attachment #1 provides estimates of (1) the number of drug and alcohol tests that may be required, and (2) the number of pre-employment tests for new hires. Information concerning the estimates of post-accident testing is not available.
- 2.1.7 The contractor shall provide all materials, supplies, and equipment necessary to successfully perform the services required herein, including but not necessarily limited to, specimen collection and identification supplies, test tubes, labels, reagents, shipping containers, split specimen containers, etc.
- a. All testing equipment, materials, and supplies used by the contractor must meet accuracy and reliability standards and requirements as established by the Federal Department of Transportation

(DOT), Federal Department of Health and Human Services (HHS), and the Missouri Department of Health and Senior Services.

2.2 Alcohol Testing Requirements: In accordance with the Act and at the request of the state agency, the contractor shall conduct alcohol testing services.

2.2.1 The contractor's Evidential Breath Testing (EBT) devices must be approved by the National Highway Traffic Safety Administration and the Missouri Department of Health and Senior Services.

2.2.2 The contractor shall provide a trained and certified Breath Alcohol Technician (BAT) to administer the breath test.

2.2.3 The contractor shall immediately notify the using state agency of a finding of .02 alcohol concentration or greater.

2.2.4 The contractor shall conduct all screening and testing in accordance with the Federal DOT alcohol testing regulations and procedures.

- a. In the event the Federal DOT reviews and revises its alcohol testing regulations and procedures, the contractor shall, at that time, expand its alcohol testing option (e.g., use a blood testing procedure) upon the mutual agreement of the contractor and the State of Missouri.

2.3 Drug Testing Requirements: In accordance with the Act and at the request of the state agency, the contractor shall conduct drug testing services.

2.3.1 The contractor shall provide a five (5) panel drug screen using current procedures as approved by the Federal HHS and the Federal DOT. The contractor shall test the collected urine specimens for detection of all the following five (5) drugs:

- a. Amphetamines/Methamphetamines,
- b. Cannabinoids (THC),
- c. Cocaine,
- d. Opiates, and
- e. Phencyclidine (PCP).

2.3.2 The contractor's laboratory, or the laboratory utilized by the contractor, must be certified by the Federal HHS per Federal DOT regulations.

AMENDMENT 003 REVISED 2.3.3

2.3.3 The contractor must report all Medical Review Officer (MRO) verified positive and negative test results to the appropriate state agency within 48 hours of sample collection.

AMENDMENT 003 REVISED 2.3.3 a.

- | |
|---|
| <ol style="list-style-type: none">a. If a state agency employee challenges a positive test result, the contractor shall send the split specimen to a second lab for re-testing. The contractor is responsible for seeking and obtaining payment for all costs associated with the challenge testing (i.e. shipping to another lab, testing, and MRO review and reporting) from the state agency employee. The state agency shall not pay the contractor or the contractor's laboratory for the challenge testing. |
|---|

AMENDMENT 003 REVISED AND RENUMBERED 2.3.4
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- b. The contractor shall conduct confirmation drug tests on positive test results as mandated by Federal DOT regulation and shall follow the same procedures for non-federal DOT mandated tests.

2.4 Random Testing Requirements:

- 2.4.1 The contractor shall develop and administer procedures and protocols for random drug and alcohol testing as mandated by Federal DOT regulation. The contractor shall select individuals for testing, conduct the test, notify appropriate authorities regarding test results, and otherwise operate the random testing system in a manner that complies with the Act.
- a. The contractor shall conduct random testing with either (a.) one pool of all state agencies, or (b.) several pools consisting of a combination of multiple state agencies, or (c.) individual pools for each state agency.
 - 1) The contractor shall update the pool on a monthly basis or as changes are provided by using state agencies.

2.5 Specimen Collection Requirements:

AMENDMENT 003 REVISED 2.5.1

- 2.5.1 The contractor must have collection sites throughout the State of Missouri. At a minimum, the contractor must have a collection site in every Missouri city/town with a population in excess of 2000. The contractor's collection sites must have the capability for both alcohol testing and drug specimen collection.
- a. The contractor shall provide specimen collection in states other than Missouri if requested by the state agency.

AMENDMENT 003 REVISED 2.5.1 b.

- b. At the request of the state agency, the contractor shall provide on-site specimen collection and breath alcohol testing. If requested by the state agency, the contractor must perform the on-site specimen collection and breath alcohol testing by means of a mobile-unit. However, if agreeable to the state agency, the contractor may perform the on-site specimen collection and breath alcohol testing in a secure area at the state agency's location. Coordination (i.e. when and where) for such shall be mutually agreed upon by the contractor and the state agency.
- 2.5.2 The contractor must collect all specimens in accordance with the Federal DOT requirements outlined in 49 CFR Part 40.
- a. The contractor must use federally mandated collection forms for both drug (5-part form) and alcohol (3-part form) specimens for regulated tests and non-federal forms for non-regulated tests.
 - b. The contractor shall collect all specimens (non-federal and federal) as split samples.
- 2.5.3 The contractor shall provide courier specimen pick-up services between 6:00 a.m. and 7:00 p.m. CST, Mondays through Fridays regardless of the site location in the State of Missouri.
- a. The contractor shall maintain responsibility for the Chain of Custody form pursuant to 49 CFR Part 40 requirements.
 - b. The contractor shall furnish chain of custody forms in compliance with the contractor's established procedures and shall provide in-service training to state agency staff regarding the collection process and procedures.

2.6 Specimen Retention Requirements:

- 2.6.1 The contractor shall retain positive specimens for one year after collection/testing, or for the specific duration of time established by federal requirements, or pending any litigation.
- a. At the written request of the state agency's Chief of Custody or other designated state agency official, the contractor shall retain any positive test specimens for a longer period of time.
- 2.6.2 The contractor shall retain negative samples for at least three workdays following collection/testing in compliance with federal standards.

2.7 Training Requirements:

AMENDMENT 001 REVISED 2.7.1

- 2.7.1 The contractor shall provide a training workshop to state agencies, at the request of the state agency, in accordance with the requirements of 49 CFR 382.603 et seq. on the topics of alcohol and drug abuse. The contractor shall provide all materials, supplies, and professional trainers.
- a. The contractor shall agree and understand that such workshops may be held anywhere in the State of Missouri. However, some trainings may take place in state facilities located in Jefferson City, St. Louis, Kansas City, and Springfield. Attachment #1 provides information as to the estimated number of employees that need to be trained.
- 1) The scheduling and site location of workshops shall be mutually agreed upon by the requesting state agency and the contractor.
- 2) If possible, the contractor may consolidate training requests received from multiple state agencies.
- b. The contractor must develop workshops for an audience composed of supervisory employees designated by the state agency to determine whether reasonable suspicion exists to require testing.
- c. The workshops shall cover the physical, behavioral, speech, and performance indicators on probable/suspected use of alcohol and/or drugs. Each workshop shall contain topics that meet training requirements specified in the Act.
- d. The contractor is advised that the number of workshop participants is unknown but may number around 15-30 participants each workshop.
- e. The contractor shall consult with the using state agency in the development of the content of a scheduled workshop. These consultations may be done in person, or by telephone, or in writing, by mutual agreement of the contractor and state agency.
- f. The contractor shall supply all handouts and related materials for each participant at no additional cost to the State of Missouri. Workshop participants shall be allowed to keep all such materials.
- 1) Workshop materials must be neatly typed and clearly printed and must identify the time, date, and location of the scheduled workshop.
- 2) The contractor shall obtain copyright permission as necessary for workshop materials.
- 3) The contractor assumes all liability, legal and otherwise, resulting from the content and presentation of workshop materials.

- g. The contractor must furnish a certificate of workshop completion to each participant who has completed each workshop.
- h. The state agency shall have the right to cancel a scheduled workshop, without incurring liability, financial or otherwise, by providing the contractor with notice of its intent to cancel at least ten working days prior to the date on which the workshop is scheduled to begin.

AMENDMENT 003 REVISED 2.7.2

2.7.2 The contractor shall develop and design written, photo-ready, and reproducible-quality educational materials that meet the requirements of 49 CFR 382, Subpart F. The educational material is subject to the approval of the state agency.

- a. At the request of the state agency, the contractor shall distribute the awareness materials to state agency employees holding a CDL.

2.8 Medical Review Officer Requirements:

AMENDMENT 003 REVISED 2.8.1

2.8.1 The contractor shall provide a Medical Review Officer (MRO) who must be a licensed physician (M.D. or D.O.) knowledgeable in areas of drug abuse and toxicology procedures to review the results of all drug tests. The qualifications and performance of the MRO must be in compliance with 49 CFR Part 40.

- a. The MRO shall administer the contractor's random testing pool, provide blind specimens, and electronically transfer test results to the state agency.

AMENDMENT 003 REVISED 2.8.1 a. 1)

- 1) With the exception of the Missouri Department of Transportation (MoDOT), the contractor and each individual using state agency shall mutually agree upon the format and the contents of the test results. If acceptable to the individual state agency, the contractor may provide the test results via web access.

- 2) The contractor must submit test results to MoDOT in the format specified on Attachment #2.

- b. The MRO must be available to provide consultation to the state agency during court proceedings.

2.9 Other Personnel Requirements:

2.9.1 Substance Abuse Professional: The contractor shall provide the services of a substance abuse professional (SAP) who must be a licensed physician (M.D. or D.O.); a licensed or certified psychologist, social worker, or Employee Assistance Professional; or an Alcohol and Drug Abuse Counselor certified by the National Association of Alcoholism and Drug Abuse Counselor's (NAADAC) Certification Commission, or the International Certification Reciprocity Consortium/Alcohol & Other Drug Abuse. Furthermore, the SAP must possess knowledge of the clinical experience in the diagnosis and treatment of alcohol and drug abuse related disorders. The qualifications and performance of the SAP must be in compliance with 49 CFR 382.

- a. The SAP shall provide substance abuse counseling at the request of the state agency.
- b. In most cases, state agency employees shall be responsible for the cost of the SAP. However, in some cases, a state agency may choose to pay for a portion or all of the cost of the SAP.
- c. Within seven calendar days following award of the contract, the contractor shall provide a listing of SAPs by region to the Division of Purchasing and Materials Management. Any time information on

the SAP listing changes, the contractor shall submit an updated listing to the Division of Purchasing and Materials Management.

2.9.2 Legal Consultation: The contractor shall provide professional legal consultation to the state agency including but not limited to consultation on testing quality control, program administration and records keeping issues, rules updates, and related legal issues.

2.9.3 Expert Witness Testimony Services: If requested by the state agency, the contractor shall provide expert testimony and witness services by qualified professionals (e.g., pathologists, biochemists, etc.) with technical expertise concerning specimen test results, chain of custody procedures, and any other aspect of the services required herein as deemed necessary in a court proceeding.

2.10 Quality Assurance Requirements:

2.10.1 At the request of the state agency, the contractor shall provide copies of reports and/or chain of custody forms to the state agency in order for the state agency to monitor the quality assurance of the program.

2.11 Reporting Requirements:

2.11.1 If requested by the Federal DOT for audit purposes, a state agency must submit detailed records of their alcohol and drug abuse prevention program to the Federal DOT. Therefore, if requested by the state agency, the contractor shall provide any necessary information and data to the state agency that will aid the state agency in submitting the required records to the Federal DOT.

2.11.2 On a quarterly basis, the contractor must provide statistical test result reports to each state agency on form OMB #2125-0543, "Drug and Alcohol Testing Management Information System Data Collection". The contractor shall provide the report by state agency with a state agency results breakdown if requested.

a. The statistical test result reports must be separated by non-federal and federal tests performed for each using state agency.

2.11.3 If requested by the state agency, the contractor shall provide copies of maintenance reports kept on the breath alcohol testing equipment used, including a description of what is checked for and how often maintenance is done (see Attachment #3).

2.11.4 The contractor shall ensure that all reports comply with Federal DOT regulations and shall be retained for the length of time established therein.

2.11.5 If remedial training of the contractor's staff is required pursuant to 49 CFR Part 40, the contractor shall notify the appropriate state agency, in writing, when the training has been completed. At the request of the state agency, the contractor shall provide training records for specified staff members.

AMENDMENT 003 ADDED 2.11.6

2.11.6 On a quarterly basis, the contractor shall submit a usage report to the Division of Purchasing and Materials Management of the services provided for all of the various state agencies during the previous quarter and year-to-date. The contractor must submit the report electronically in a format approved by the Division of Purchasing and Materials Management. At a minimum, the report must contain the number of alcohol and drug test conducted for each state agency, the number of pre-employment tests conducted, the number of mobile and out-of-state tests conducted, and the number and locations of training and the number of individuals attending each training.

2.12 Invoicing and Payment Requirements:

2.12.1 Immediately upon award of the contract, the contractor needs to submit or must have already submitted a properly completed State Vendor ACH/EFT Application, since the State of Missouri intends to make contract payments through Electronic Funds Transfer.

- a. If not already submitted, the contractor needs to obtain a copy of the State Vendor ACH/EFT Application and completion instructions from the Internet at:

<http://www.oa.mo.gov/purch/vendorinfo/vendorach.pdf>

- b. The contractor must submit a unique invoice number with each invoice submitted. The unique invoice number will be listed on the State of Missouri's EFT addendum record to enable the contractor to properly apply the state agency's payment to the invoice submitted.

2.12.2 Invoicing – The contractor must submit an itemized monthly invoice to each using state agency for services provided during the previous month. The state agency shall identify the correct billing address and contact person.

- a. The contractor's invoice shall include the Social Security Number of the employees tested.

AMENDMENT 003 ADDED ITEM 2.12.2 b.

- b. If acceptable to the state agency, the contractor may submit the invoice via email.

2.12.3 Payments - The contractor shall be paid in accordance with the firm, fixed prices stated on the Pricing Page.

- a. Each state agency shall be solely responsible for payment for only those services provided for that state agency.

AMENDMENT 003 ADDED ITEM 2.12.3 b.

- b. The contractor shall be paid for each test result reviewed by the MRO, regardless as to whether the results were positive or negative, at the firm, fixed price stated on the Pricing Page.

2.12.4 Other than the payments specified above, no other payments or reimbursements shall be made to the contractor.

2.13 Other Contractual Requirements:

2.13.1 Contract: A binding contract shall consist of: (1) the RFP, amendments thereto, and any Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including any BAFOs and (3) the Division of Purchasing and Materials Management's acceptance of the proposal by "notice of award" or by "purchase order". All Exhibits and Attachments included in the RFP shall be incorporated into the contract by reference.

- a. The notice of award does not constitute a directive to proceed. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized purchase order.
- b. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein.
- c. Any change to the contract, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the Division of Purchasing and Materials Management or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other

document, including correspondence from the state agency, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification to the contract.

- 2.13.2 **Contract Period:** The original contract period shall be as stated in the Request for Proposal (RFP). The contract shall not bind, nor purport to bind, the state for any contractual commitment in excess of the original contract period. The Division of Purchasing and Materials Management shall have the right, at its sole option, to renew the contract for three (3) additional one-year periods, or any portion thereof. In the event the Division of Purchasing and Materials Management exercises such right, all terms and conditions, requirements and specifications of the contract shall remain the same and apply during the renewal period, pursuant to applicable option clauses of this document.
- 2.13.3 **Renewal Periods:** If the option for renewal is exercised by the Division of Purchasing and Materials Management, the contractor shall agree that the prices for the renewal period shall not exceed the maximum price for the applicable renewal period stated on the Pricing Page of the contract.
- a. If renewal prices are not provided, the prices during renewal periods shall be the same as during the original contract period.
 - b. The Division of Purchasing and Materials Management does not automatically exercise its option for renewal based upon the maximum price and reserves the right to offer or to request renewal of the contract at a price less than the maximum price stated.
- 2.13.4 **Termination:** The Division of Purchasing and Materials Management reserves the right to terminate the contract at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the contractor at least thirty (30) calendar days prior to the effective date of such termination. The contractor shall be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by the State of Missouri pursuant to the contract prior to the effective date of termination.
- 2.13.5 **Transition:** Upon expiration, termination, or cancellation of the contract, the contractor shall assist the state agency to insure an orderly transfer of responsibility and/or the continuity of those services required under the terms of the contract to an organization designated by the state agency, if requested in writing. The contractor shall provide and/or perform any or all of the following responsibilities:
- a. The contractor shall deliver, FOB destination, all records, documentation, reports, data, recommendations, or printing elements, etc., which were required to be produced under the terms of the contract to the state agency and/or to the state agency's designee within seven (7) days after receipt of the written request.
 - b. The contractor shall agree to continue providing any part or all of the services in accordance with the terms and conditions, requirements and specifications of the contract for a period not to exceed thirty (30) calendar days after the expiration, termination or cancellation date of the contract for a price not to exceed those prices set forth in the contract.
 - c. The contractor shall discontinue providing service or accepting new assignments under the terms of the contract, on the date specified by the state agency, in order to insure the completion of such service prior to the expiration of the contract.
- 2.13.6 **Contractor Liability:** The contractor shall be responsible for any and all personal injury (including death) or property damage as a result of the contractor's negligence involving any equipment or service provided under the terms and conditions, requirements and specifications of the contract. In addition, the contractor assumes the obligation to save the State of Missouri, including its agencies, employees, and assignees, from every expense, liability, or payment arising out of such negligent act. The contractor also agrees to hold the State of Missouri, including its agencies, employees, and assignees, harmless for any

negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the contractor under the terms of the contract.

- a. The contractor shall not be responsible for any injury or damage occurring as a result of any negligent act or omission committed by the State of Missouri, including its agencies, employees, and assignees.
- b. Under no circumstances shall the contractor be liable for any of the following: (1) third party claims against the state for losses or damages (other than those listed above); or (2) economic consequential damages (including lost profits or savings) or incidental damages, even if the contractor is informed of their possibility.

2.13.7 Insurance: The contractor shall understand and agree that the State of Missouri cannot save and hold harmless and/or indemnify the contractor or employees against any liability incurred or arising as a result of any activity of the contractor or any activity of the contractor's employees related to the contractor's performance under the contract.

- a. Therefore, the contractor must acquire and maintain adequate liability insurance in the form(s) and amount(s) sufficient to protect the State of Missouri, its agencies, its employees, its clients, and the general public against any such loss, damage and/or expense related to his/her performance under the contract. The insurance coverage shall include general liability and appropriate professional liability. Written evidence of the insurance shall be provided by the contractor to the state agency. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage, limits of liability, insurer's name, policy number, endorsement by representatives of the insurance company, etc. Evidence of self-insurance coverage or of another alternative risk financing mechanism may be utilized provided that such coverage is verifiable and irrevocably reliable. The evidence of insurance coverage must be submitted before or upon award of the contract. The contract number must be identified on the evidence of insurance coverage. In the event the insurance coverage is canceled, the state agency must be notified immediately.

2.13.8 Subcontractors: Any subcontracts for the products/services described herein must include appropriate provisions and contractual obligations to ensure the successful fulfillment of all contractual obligations agreed to by the contractor and the State of Missouri and to ensure that the State of Missouri is indemnified, saved, and held harmless from and against any and all claims of damage, loss, and cost (including attorney fees) of any kind related to a subcontract in those matters described in the contract between the State of Missouri and the contractor. The contractor shall expressly understand and agree that he/she shall assume and be solely responsible for all legal and financial responsibilities related to the execution of a subcontract. The contractor shall agree and understand that utilization of a subcontractor to provide any of the products/services in the contract shall in no way relieve the contractor of the responsibility for providing the products/services as described and set forth herein. The contractor must obtain the approval of the State of Missouri prior to establishing any new subcontracting arrangements and before changing any subcontractors. The approval shall not be arbitrarily withheld.

2.13.9 Substitution of Personnel: The contractor agrees and understands that the State of Missouri's agreement to the contract is predicated in part on the utilization of the specific individual(s) and/or personnel qualifications identified in the proposal. Therefore, the contractor agrees that no substitution of such specific individual(s) and/or personnel qualifications shall be made without the prior written approval of the state agency. The contractor further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the state agency's approval of a substitution shall not be construed as an acceptance of the substitution's performance potential. The State of Missouri agrees that an approval of a substitution will not be unreasonably withheld.

2.13.10 Contractor Status: The contractor represents himself or herself to be an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the State of Missouri. Therefore, the contractor shall assume all legal and financial

responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees, harmless from and against, any and all loss; cost (including attorney fees); and damage of any kind related to such matters.

- 2.13.11 Coordination: The contractor shall fully coordinate all contract activities with those activities of the state agency. As the work of the contractor progresses, advice and information on matters covered by the contract shall be made available by the contractor to the state agency or the Division of Purchasing and Materials Management throughout the effective period of the contract.
- 2.13.12 Property of State: All reports, documentation, and material developed or acquired by the contractor as a direct requirement specified in the contract shall become the property of the State of Missouri. The contractor shall agree and understand that all discussions with the contractor and all information gained by the contractor as a result of the contractor's performance under the contract shall be confidential and that no reports, documentation, or material prepared as required by the contract shall be released to the public without the prior written consent of the state agency.
- 2.13.13 Federal Funds Requirement: The contractor shall understand and agree that this procurement may involve the expenditure of federal funds. Therefore, in accordance with the Departments of Labor, Health and Human Services, and Education and Related Agencies Appropriations Act, Public Law 101-166, Section 511, "Steven's Amendment", the contractor shall not issue any statements, press releases, and other documents describing projects or programs funded in whole or in part with Federal money unless the prior approval of the state agency is obtained and unless they clearly state the following as provided by the state agency:
- a. The percentage of the total costs of the program or project which will be financed with Federal money;
 - b. The dollar amount of Federal funds for the project or program; and
 - c. Percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.
- 2.13.14 Cooperative Procurement Program: If the contractor has indicated agreement on Exhibit D with participation in the Cooperative Procurement Program, the contractor shall provide employee drug and alcohol testing as described herein under the terms and conditions, requirements and specifications of the contract, including prices, to other government entities in accordance with the Technical Services Act (67.360 RSMo, which is available on the internet at: <http://www.moga.state.mo.us/statutes/C000-099/0670000360.HTM>.) The contractor shall further understand and agree that participation by other governmental entities is discretionary on the part of that governmental entity and the State of Missouri bears no financial responsibility for any payments due the contractor by such governmental entities.
- 2.13.15 Minority Business Enterprise/Women Business Enterprise (MBE/WBE) Participation: The contractor must comply with the MBE/WBE participation levels committed to in the contractor's awarded proposal.
- a. The contractor shall prepare and submit to the Division of Purchasing and Materials Management periodic reports detailing all payments to MBE/WBEs participating in the contract. The report must include MBE/WBE payments for the reporting period. The report shall be submitted on a monthly basis unless otherwise determined by the Division of Purchasing and Materials Management.
 - b. The Division of Purchasing and Materials Management and the Office of Equal Opportunity will monitor the contractor's compliance in meeting the MBE/WBE participation levels committed to in the contractor's awarded proposal. If the contractor's payments to participating MBE/WBEs are less than the amount committed to in the contract, the state may cancel the contract, suspend or

debar the contractor from participating in future state procurements, or retain payments to the contractor in an amount equal to the value of the MBE/WBE participation commitment less actual payments made by the contractor to MBE/WBEs. If the Division of Purchasing and Materials Management determines that the contractor is in compliance with the MBE/WBE participation commitment, the state will release the retained funds.

- c. If a participating MBE/WBE fails to retain their certification or is unable to satisfactorily perform, the contractor must obtain other certified MBE/WBEs to fulfill the MBE/WBE participation requirements committed to in the contractor's awarded proposal. The contractor must provide written notification to the Division of Purchasing and Materials Management for any new MBE/WBE participants. The Division of Purchasing and Materials Management will verify that the proposed MBE/WBE has been certified by the Office of Equal Opportunity and will provide acknowledgement of the new MBE/WBE participant to the contractor.
- d. If the contractor cannot obtain a MBE/WBE replacement, the contractor must submit an Application for Waiver to the Division of Purchasing and Materials Management documenting all efforts made to secure an MBE/WBE replacement. The Division of Purchasing and Materials Management shall have sole discretion in determining if the actions taken by the contractor constitute a good faith effort to secure the participation of MBE/WBEs and whether the contract will be amended to change the MBE/WBE participation commitment.

3. PROPOSAL SUBMISSION INFORMATION

3.1 Submission of Proposals:

3.1.1 ELECTRONIC SUBMISSION OF PROPOSALS THROUGH THE ON-LINE BIDDING WEB SITE IS NOT AVAILABLE FOR THIS RFP.

3.1.2 When submitting a proposal, the offeror should include four (4) additional copies along with their original proposal for a total of five (5).

3.1.3 To facilitate the evaluation process, the offeror is encouraged to organize their proposal into distinctive sections that correspond with the individual evaluation categories described herein. The offeror is cautioned that it is the offeror's sole responsibility to submit information related to the evaluation categories and that the State of Missouri is under no obligation to solicit such information if it is not included with the proposal. The offeror's failure to submit such information may cause an adverse impact on the evaluation of the proposal.

- a. Each distinctive section should be titled with each individual evaluation category and all material related to that category should be included therein.
- b. The proposal should be page numbered.
- c. The signed page one from the original RFP and all signed amendments should be placed at the beginning of the proposal.

3.1.4 The offeror should complete and submit Exhibit D, Miscellaneous Information, to document: (1) if the offeror qualifies as either a nonprofit organization for the blind or a sheltered workshop, or if the offeror is proposing to include products and/or services manufactured, produced, or assembled by such an organization, (2) whether the offeror and/or any of the owners of the offeror's organization are currently an employee of the State of Missouri, a member of the General Assembly, or a statewide elected official, and (3) the offeror's agreement/disagreement to participate in the State of Missouri's Cooperative Procurement Program.

3.1.5 Offeror's Contacts: Offerors and their agents (including subcontractors, employees, consultants, or anyone else acting on their behalf) must direct all of their questions or comments regarding the RFP, the evaluation, etc. to the buyer of record indicated on the first page of this RFP. The buyer may be contacted via e-mail or phone as shown on the first page, or via facsimile to 573-526-9817. In addition, the offeror may contact the Office of Equal Opportunity regarding MBE/WBE certification or subcontracting related to the MBE/WBE participation requirements at (877) 259-2963 or (573) 751-8130 or by fax at (573) 522-8078.

- a. Offerors and their agents may not contact any other state employee regarding any of these matters during the solicitation and evaluation process. Inappropriate contacts are grounds for suspension and/or exclusion from specific procurements. Offerors and their agents who have questions regarding this matter should contact the buyer of record.
- b. Offerors are advised that any questions received less than ten calendar days prior to the RFP opening date may not be answered.

3.2 Competitive Negotiation of Proposals: The offeror is advised that under the provisions of this Request for Proposal, the Division of Purchasing and Materials Management reserves the right to conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:

3.2.1 Negotiations may be conducted in person, in writing, or by telephone.

- 3.2.2 Negotiations will only be conducted with potentially acceptable proposals. The Division of Purchasing and Materials Management reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All offerors involved in the negotiation process will be invited to submit a best and final offer.
- 3.2.3 Terms, conditions, prices, methodology, or other features of the offeror's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the offeror may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
- 3.2.4 The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management determines that a change in such requirements is in the best interest of the State of Missouri.

3.3 Evaluation and Award Process:

- 3.3.1 After determining that a proposal satisfies the mandatory requirements stated in the Request for Proposal, the evaluator(s) shall use both objective analysis and subjective judgment in conducting a comparative assessment of the proposal in accordance with the evaluation criteria stated below:
- a. Cost.....50 points
 - b. Experience, Reliability, and Expertise of Personnel.....25 points
 - c. Method of Performance25 points
- 3.3.2 After an initial screening process, a question and answer conference or interview may be conducted with the offeror, if deemed necessary by the Division of Purchasing and Materials Management. In addition, the offeror may be asked to make an oral presentation of their proposal during the conference. Attendance cost at the conference shall be at the offeror's expense. All arrangements and scheduling shall be coordinated by the Division of Purchasing and Materials Management.
- 3.3.3 Preference for Organizations for the Blind and Sheltered Workshops - A five (5) bonus point preference shall be granted to offerors including products and/or services manufactured, produced or assembled by a qualified nonprofit organization for the blind established pursuant to 41 U.S.C. sections 46 to 48c or a sheltered workshop holding a certificate of approval from the Department of Elementary and Secondary Education pursuant to section 178.920 RSMo. Five bonus points will be added to the total evaluation points for offerors qualifying for the preference.
- a. If the offeror is an organization for the blind or sheltered workshop, the offeror should provide evidence of qualifications (i.e., copy of certificate or certificate number).
 - b. If the offeror is utilizing an organization for the blind or a sheltered workshop as a subcontractor, the offeror should submit: (1) a letter of intent signed by the organization for the blind or sheltered workshop describing the products/services they will provide and indicating their commitment to aid the contractor's performance under the prospective state contract, and (2) evidence that the subcontractor qualifies as an organization for the blind or sheltered workshop.
 - c. The two known organizations for the blind in the State of Missouri are Lighthouse for the Blind and Alpha Pointe. A list of Missouri sheltered workshops can be found at the following Internet address:

<http://www.dese.state.mo.us/divspeced/shelteredworkshops/swindex.html>

3.4 Evaluation of Cost:

- 3.4.1 The objective evaluation of cost shall be based upon the sum of the following:

AMENDMENT 001 REVISED 3.4.1 a. THROUGH h. AND m.

- a. Line item 001 multiplied by 5,000, plus
- b. Line item 002 multiplied by 250, plus
- c. Line item 003 multiplied by 7,000, plus
- d. Line item 004 multiplied by 350, plus
- e. Line item 005 multiplied by 2,500, plus
- f. Line item 006 multiplied by 125, plus
- g. Line item 007 multiplied by 4,500, plus
- h. Line item 008 multiplied by 7,000, plus
- i. Line item 009 multiplied by 70, plus
- j. Line item 010 multiplied by 40, plus
- k. Line item 011 multiplied by 40, plus
- l. Line item 012 multiplied by 40, plus
- m. Line item 013 multiplied by 100.

Cost points shall be calculated based on the sum from the above calculation using the following formula:

$$\frac{\text{Lowest Responsive Price}}{\text{Compared Price}} \times 50 = \text{Cost score points}$$

3.4.2 The evaluation will include the original contract period plus renewal option periods.

3.4.3 The offeror shall agree and understand that the quantities used in the evaluation of cost are provided solely to document how cost will be evaluated. The State of Missouri makes no guarantee regarding the accuracy of the quantities stated nor does the State of Missouri intend to imply that the figures used for the cost evaluation in any way reflect actual nor anticipated usage.

3.5 Evaluation of Offeror's Experience, Reliability, and Expertise of Personnel:

3.5.1 Experience and reliability of the offeror's organization are considered subjectively in the evaluation process. Therefore, the offeror is advised to submit any information which documents successful and reliable experience in past performances, especially those performances related to the requirements of this RFP. In particular, the offeror should identify any prior experience administering a random drug testing program, and the number of employees for whom the program was administered.

3.5.2 The offeror should provide, on Exhibit A or in any other format, the following information related to previous and current services/contracts performed by the offeror's organization and any proposed subcontractors which are similar to the requirements of this RFP. In addition, the offeror should obtain the signature of the contact person referenced on the Exhibit verifying that that information presented is accurate. The contact person's signature also represents that the contact person is willing and will be available for contact by the State of Missouri in order to discuss the services performed by the offeror for the contact person's company.

- a. Name, address, and telephone number of client/contracting agency and a representative of that client/agency who may be contacted for verification of all information submitted;
- b. Dates of the service/contract; and
- c. A brief, written description of the specific prior services performed and requirements thereof.

AMENDMENT 003 REVISED 3.5.3

3.5.3 The qualifications of the personnel proposed by the offeror to perform the requirements of this RFP, whether from the offeror's organization or from a proposed subcontractor, will be subjectively evaluated. Therefore, the offeror should submit detailed information related to the experience and qualifications, including education and training, of proposed personnel. Specifically, the offeror should submit

information regarding: (1) the proposed SAP, their qualifications and certification, and the entity that certified them as a SAP, (2) the proposed MRO and their qualifications and certifications, and (3) the Breath Alcohol Technicians and their qualifications and certifications. The offeror should submit a copy of all licenses and/or certifications related to the performance of the services required herein that are held by the personnel proposed to provide such services including the SAP, MRO, and Breath Alcohol Technicians.

- a. The offeror may utilize Exhibit B for summarizing the personnel information and should submit detailed resumes for proposed key personnel.
 - 1) Resumes should be structured to emphasize relevant qualifications and experience of the personnel in successfully completing contracts/performing services of a similar size and scope to the requirements of this RFP.
 - 2) Information submitted should clearly identify previous experience in performing similar services and should include beginning and ending dates, a description of the role of the person in such performances, results of the services performed, and how the persons involvement in that project will relate to the person's ability to contribute to the State of Missouri.
- b. If personnel are not yet hired, the offeror should provide detailed descriptions of the required employment qualifications; and detailed job descriptions of the position to be filled, including the type of person proposed to be hired.

3.5.4 The offeror should identify the proposed laboratory and provide a copy of the laboratory's licenses and/or certifications related to the performance of the services required herein.

3.5.5 Business Compliance - The offeror must be in compliance with the laws regarding conducting business in the State of Missouri. The offeror certifies by signing the signature page of this original document and any amendment signature page(s) that the offeror and any proposed subcontractors are presently in compliance with such laws. The offeror shall provide documentation of compliance upon request by the Division of Purchasing and Materials Management. The compliance to conduct business in the state shall include, but not necessarily be limited to:

- a. Registration of business name (if applicable)
- b. Certificate of authority to transact business/certificate of good standing (if applicable)
- c. Taxes (i.e., city/county/state/federal)
- d. State and local certifications (i.e., professions/occupations/activities)
- e. Licenses and permits (i.e., city/county license, sales permits)
- f. Insurance (i.e., worker's compensation/unemployment compensation)

3.6 Evaluation of Method of Performance:

3.6.1 Proposals will be subjectively evaluated based on the offeror's distinctive plan for performing the requirements of the RFP. Therefore, the offeror should present a written narrative which demonstrates the method or manner in which the offeror proposes to satisfy these requirements. The language of the narrative should be straightforward and limited to facts, solutions to problems, and plans of action.

3.6.2 The method by which the proposed method of performance is written is left to the discretion of the offeror. The following method may be used:

On Exhibit C, or in any other appropriate format, identify each specific paragraph and subparagraph of the Contractual Requirements by paragraph number as an item for discussion. Immediately below the number, write a description of how, when, by whom, with what, to what degree, why, where, etc., the requirements will be satisfied and otherwise detail the offeror's understanding of the requirements and ability to successfully perform.

3.6.3 In presenting the method of performance, the offeror should submit or describe the following:

- a. The make and model of the testing instruments to be used for breath alcohol testing;
- b. Chain of custody procedures and custody form for both drug and alcohol testing;
- c. The computer program used to select random numbers or how random numbers are selected and how updates are handled;

AMENDMENT 003 REVISED 3.6.3 d.

- d. The locations (city/town) within the State of Missouri of the offeror and proposed subcontractor'(s) alcohol testing and drug specimen collection sites, and the identification of states other than Missouri with alcohol testing and drug specimen collection sites;
- e. Turnaround times for results on both alcohol and drug tests;

AMENDMENT 003 REVISED 3.6.3 f.

- f. STAT and weekend testing and reporting capabilities for post-accident tests, reasonable suspicion, pre-employment testing, etc.;
- g. What confirmatory testing methods will be used (e.g., IR, GC/MS, etc.);
- h. Proof of insurance coverage including levels and period of policy;
- i. Courier procedure, name of courier;
- j. Samples of reports;

AMENDMENT 003 DELETED 3.6.3 k.

- k. DELETED
- l. Sites for training workshops,
- m. How remedial training will be handled when there is a fatal flaw in the collection process,
- n. How quality control will be handled in the random testing program,
- o. Where the employee is instructed to go once the substance abuse professional performs the intake evaluation,

AMENDMENT 003 REVISED 3.6.3 p.

- p. The locations (city/town) within the State of Missouri of the offeror and proposed subcontractor(s) Substance Abuse Professionals.
- q. Provide a description of the proposed services that will be performed and/or the proposed products that will be provided by Missourians and/or Missouri products.
- r. Provide a description of the economic impact returned to the State of Missouri through tax revenue obligations.
- s. Provide a description of the company's economic presence within the State of Missouri (i.e., type of facilities: sales offices; sales outlets; divisions; manufacturing; warehouse; other), including Missouri employee statistics.

- t. If any products and/or services offered under this RFP are being manufactured or performed at sites outside the continental United States, the offeror MUST disclose such fact and provide details with the proposal.

3.7 Offeror Requirements for Minority Business Enterprise (MBE) and Women Business Enterprise (WBE) Participation

3.7.1 Mandatory Requirement for Participation - In order for the Division of Purchasing and Materials Management to meet the requirements of Executive Order 98-21, the offeror must secure participation by certified MBEs and WBEs in providing the products/services required in this RFP. The offeror must secure MBE participation of at least 20% and WBE participation of at least 10% of the total dollar value of the contract.

- a. These requirements can be met by a qualified MBE/WBE offeror themselves and/or through the use of qualified subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for MBE/WBE participation. In order to be considered as meeting these requirements, the MBE/WBEs must be qualified at the time the proposal is submitted.
- b. Work performed by MBE/WBEs must provide a commercially useful function related to the delivery of the service/product required herein.

3.7.2 Definition - Qualified MBE/WBE:

- a. *MBE or WBE* means a business that is a sole proprietorship, partnership, joint venture, or corporation in which at least fifty-one percent (51%) of the ownership interest is held by minorities or women and the management and daily business operations of which are controlled by one or more minorities or women who own it.
- b. *Minority* is defined in RSMo 33.750 as belonging to one of the following racial minority groups: African Americans, Native Americans, Hispanic Americans, Asian Americans, or other similar racial groups.
- c. In order to be considered a *qualified* MBE or WBE for purposes of this RFP, the MBE/WBE *must be certified* by the State of Missouri, Office of Administration, Office of Equal Opportunity (OEO).

3.7.3 Offerors Qualifying as MBE/WBE - MBE/WBEs submitting proposals can meet the MBE or WBE participation requirements by completing the Documentation of MBE/WBE Participation Exhibit and verifying their certification by the OEO as an MBE or WBE. Note: Portions of the contract that will be performed by businesses which do not qualify as MBEs or WBEs will not be considered as MBE/WBE participation.

3.7.4 Potential MBE/WBE Subcontracting and Other Participation Opportunities - This information is intended to suggest potential opportunities for participation of MBEs and WBEs in providing the products and services required in the RFP. The offeror can meet the participation requirements through the use of subcontractors, suppliers, joint ventures, or other arrangements that afford meaningful opportunities for qualified MBE/WBE participation. The following list is not meant to be all inclusive, nor is it intended to limit the offeror to utilize the participation in the manner identified.

a. Supplies/Equipment	b. Training	c. Courier Services
d. Specimen Collection Sites		

3.7.5 Resources - A listing of several resources that are available to assist offerors in their efforts to identify and secure the participation of qualified MBEs and WBEs is available by contacting the Supplier Diversity Program as specified below:

Office of Administration, Supplier Diversity Program
P.O. Box 809, Harry S Truman Bldg., Room 840
Jefferson City, MO 65102
Phone: (877) 259-2963 or (573) 751-8130, Fax: (573) 522-8078
Web Address: <http://www.oa.mo.gov/oeo/sd.html>

- 3.7.6 Participation Commitment - To identify each proposed MBE and WBE, the offeror must complete the MBE/WBE Participation Commitment Table, Exhibit E.
- 3.7.7 Documentation of MBE/WBE Participation - The offeror must insure that each MBE and WBE listed in the MBE/WBE Participation Commitment Table, Exhibit E, completes a Documentation of MBE/WBE Form, Exhibit F.
- a. Each completed Documentation of MBE/WBE Participation Form must be submitted by the offeror with the proposal.
 - b. The percentage level of MBE/WBE participation committed to by the offeror in the MBE/WBE Participation Commitment Table and verified in the Documentation of MBE/WBE Participation Form, shall be considered by the Division of Purchasing and Materials Management in determining if the offeror has satisfied the MBE/WBE participation requirements.
 - c. Note - The offeror should submit documentation of any MBE/WBE participation they are able to obtain. If the percentage is less than the required 20% MBE or 10% WBE, the offeror must also submit the Application for Waiver, Exhibit G.
- 3.7.8 Application for Waiver - If the committed percentage of participation is less than 20% for MBE and/or less than 10% for WBE, the offeror must complete the Application for Waiver, Exhibit G, documenting efforts made to meet the MBE/WBE participation requirements.
- 3.7.9 Rejection of Proposal - Failure of the offeror to obtain 20% MBE participation and 10% WBE participation shall result in rejection of the proposal unless the Application for Waiver exhibit is submitted with the proposal by the offeror and approved by the Division of Purchasing and Materials Management.
- a. The Division of Purchasing and Materials Management will review the Application for Waiver and any other applicable information contained in the proposal to determine if the MBE/WBE participation requirements will be waived.
 - b. The ability of other offerors to obtain MBE/WBE participation will be considered by the Division of Purchasing and Materials Management in determining whether to grant a waiver for any offeror not obtaining the required MBE/WBE participation.
 - c. The Division of Purchasing and Materials Management reserves the right to request additional information from the offeror to determine compliance with the MBE/WBE participation requirements.

4. PRICING PAGE

The offeror shall provide firm, fixed prices in the table below for the original contract period and maximum prices for each potential renewal period for providing the services in accordance with the provisions and requirements of this RFP. All costs associated with providing the required services, including postage and courier costs, shall be included in the stated prices. (C/S Code 94940)

	Service Description	Original Contract Period <i>Firm Fixed Price</i>	First Renewal Period <i>Maximum Price</i>	Second Renewal Period <i>Maximum Price</i>	Third Renewal Period <i>Maximum Price</i>
001	Breath Alcohol Test	\$ _____ Each	\$ _____ Each	\$ _____ Each	\$ _____ Each
002	Breath Alcohol Confirmation Test	\$ _____ Each	\$ _____ Each	\$ _____ Each	\$ _____ Each
003	Five-Panel Drug Screen (Urine Specimen)	\$ _____ Each	\$ _____ Each	\$ _____ Each	\$ _____ Each
004	Drug Specimen Positive Confirmation Test	\$ _____ Each	\$ _____ Each	\$ _____ Each	\$ _____ Each
005	Mobile Based Test	\$ _____ Each (Add-on Fee for Mobile Based Testing)	\$ _____ Each (Add-on Fee for Mobile Based Testing)	\$ _____ Each (Add-on Fee for Mobile Based Testing)	\$ _____ Each (Add-on Fee for Mobile Based Testing)
006	Training Workshop, including materials for training workshop	\$ _____ Per Participant	\$ _____ Per Participant	\$ _____ Per Participant	\$ _____ Per Participant
007	Awareness Material	\$ _____ Per Piece (e.g. brochure)	\$ _____ Per Piece (e.g. brochure)	\$ _____ Per Piece (e.g. brochure)	\$ _____ Per Piece (e.g. brochure)
008	MRO Test Result Review	\$ _____ Per Result Review	\$ _____ Per Result Review	\$ _____ Per Result Review	\$ _____ Per Result Review
009	MRO Consultation to Agency During Court Proceedings	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour
010	Substance Abuse Professional (SAP)	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour
011	Legal Consultation	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour
012	Expert Witness Testimony	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour	\$ _____ Per Hour
013	Out of State Testing	\$ _____ Per Test (Add-on Fee for Out-of-state Testing)	\$ _____ Per Test (Add-on Fee for Out-of-state Testing)	\$ _____ Per Test (Add-on Fee for Out-of-state Testing)	\$ _____ Per Test (Add-on Fee for Out-of-state Testing)

EXHIBIT A**PRIOR EXPERIENCE OF OFFEROR**

The offeror should copy and complete this form for each reference being submitted as demonstration of the offeror and subcontractor's prior experience. In addition, the offeror is advised that if the contact person listed for the reference is unable to be reached during the evaluation, the listed experience may not be considered.

Offeror/Subcontractor Name:	
Reference Information (Prior Services Performed For:)	
Name of Reference Company:	
Address of Reference Company:	
Reference Contact Person Name:	
Contact Person Phone #	
Contact Person e-mail address:	
Dates of Prior Services:	
Dollar Value of Prior Services	
Description of Prior Services Performed	

As the contact person for the reference provided above, my signature below verifies that the information presented on this form is accurate. I am available for contact by the State of Missouri for additional discussions regarding my/my company's association with the offeror referenced above:

Signature of Reference Contact Person

Date of Signature

EXHIBIT B**PERSONNEL EXPERTISE SUMMARY**
(Also attach resumes for key personnel)

Personnel	Background and Expertise of Personnel
1. _____ (Name)	_____ _____ (Title)
2. _____ (Name)	_____ _____ (Title)
3. _____ (Name)	_____ _____ (Title)
4. _____ (Name)	_____ _____ (Title)
5. _____ (Name)	_____ _____ (Title)
6. _____ (Name)	_____ _____ (Title)
7. _____ (Name)	_____ _____ (Title)

EXHIBIT C

METHOD OF PERFORMANCE

The offeror may use this form, or any format desired, to present a written plan for performing the requirements specified in this Request for Proposal.

EXHIBIT D**MISCELLANEOUS INFORMATION**

Organizations for the Blind or Sheltered Workshop: If the offeror qualifies as either a nonprofit organization for the blind or a sheltered workshop, or if the offeror is proposing to include products and/or services manufactured, produced, or assembled by such an organization, the offeror should identify the name of the organization in the space below and should attach all supporting documentation, as referenced elsewhere herein.

Name & Address of Organization for Blind/Sheltered Workshop:	_____

Employee Bidding/Conflict of Interest: Offerors who are employees of the State of Missouri, a member of the General Assembly or a statewide elected official must comply with Sections 105.450 to 105.458 RSMo regarding conflict of interest. If the offeror and/or any of the owners of the offeror's organization are currently an employee of the State of Missouri, a member of the General Assembly or a statewide elected official, please provide the following information.

Name of State Employee, General Assembly Member, or Statewide Elected Official:		
	In what office/agency are they employed?	
	Employment Title:	
Percentage of ownership interest in offeror's organization:		_____ %

Local Government Use (Cooperative Procurement): The offeror should indicate agreement/disagreement to participate in the State of Missouri's Cooperative Procurement Program as described herein.

Yes___ No___

EXHIBIT E**MBE/WBE PARTICIPATION COMMITMENT TABLE**

The offeror must indicate below the percentage of **qualified** MBE and WBE participation committed to in relation to the total dollar value of the contract. (Note: Products/Services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

If the offeror is a qualified MBE and/or WBE, the offeror must indicate the percentage of the contract value that the offeror will provide themselves.

Note: In order to be a **qualified** MBE or WBE for purposes of this RFP, the MBE/WBE must be certified by the State of Missouri, Office of Administration, Office of Equal Opportunity (OEO).

Name of MBE	Percentage of Total Contract Value	Name of WBE	Percentage of Total Contract Value
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
Total MBE: <i>(must be at least 20%)</i>		Total WBE: <i>(must be at least 10%):</i>	

Authorized Signature of Offeror

Date of Signature

EXHIBIT F**DOCUMENTATION OF MBE/WBE PARTICIPATION**

The offeror must provide a copy of this Exhibit to each MBE/WBE. Each MBE/WBE included in the offeror's proposal must complete a copy of this exhibit separately. If the offeror qualifies as a MBE and/or WBE, the offeror must also complete this Exhibit. Each completed exhibit must be submitted with the offeror's proposal.

Indicate appropriate business classification(s):

_____ *MBE* _____ *WBE*

Name of MBE/WBE firm: _____

Address: _____ Phone #: _____

City/State/Zip: _____ Fax #: _____

Email Address: _____

Describe the products/services you (*as the MBE/WBE company participating in the contract*) will be providing. (Note: Products/services provided by MBE/WBEs must provide a commercially useful function related to the delivery of the products/services required herein.)

Provide the percentage of MBE/WBE participation committed to in relation to the total dollar value of the contract for the products/services you are providing.

_____ %

Provide or attach an explanation of the assumptions used in the development of the above percentage.

Each MBE/WBE must provide their State of Missouri, Office of Equal Opportunity certification number below.

By signing below, the undersigned hereby affirms that the company listed above meets the definition of a MBE or WBE as defined in RSMo 37.020 and has obtained certification from the State of Missouri, Office of Administration, Office of Equal Opportunity.

Name of MBE/WBE Owner: _____ Date: _____

MBE/WBE Certification Number: _____ Certification Expiration Date: _____

Federal Employer Identification Number/Social Security Number: _____

Authorized Signatures:

MBE/WBE Owner Authorized Signature

Date

Offeror Authorized Signature

Date

EXHIBIT G**APPLICATION FOR WAIVER**

If less than 20% of the total dollar value of the contract will be performed by qualified MBEs and/or less than 10% of the total dollar value of the contract will be performed by qualified WBEs, the offeror must apply for a waiver of the MBE/WBE participation requirements by completing this exhibit.

Indicate which participation requirement the offeror is requesting a waiver of: _____ MBE or _____ WBE

(A separate Application for Waiver must be submitted for each.)

Section A - Initial Efforts:

(1) Describe steps taken by your firm to divide the specifications/requirements into areas in which MBE/WBEs would be capable of performing.

(2) Note contacts made to the Office of Equal Opportunity to identify potential MBEs/WBEs. Provide date(s) and name of individual(s) contacted.

(3) Note written efforts to contact MBE/WBEs qualified to participate in the contract in sufficient time to allow for their effective participation. *(Provide name, address, and telephone number of MBE/WBE firms contacted and dates and copies of correspondence, etc.)*

Section B - Follow Up Efforts

(1) Describe efforts made by your firm to provide interested MBE/WBEs with sufficiently detailed information about specifications and requirements of the contract. *(Submit copies of information provided to the MBE/WBEs.)*

(2) If MBE/WBEs indicated a desire to participate or submitted proposals, list MBE/WBEs submitting proposals and reasons for rejecting.

Application for Waiver, Continued

Based on the above stated efforts made to obtain qualified MBE/WBE participation, the offeror hereby requests that the applicable participation requirements be waived.

The undersigned hereby certifies that the statements provided in this Application for Waiver are true and correct to the best of his/her knowledge, information, and belief.

Authorized Signature of Offeror: _____

Name: _____

Title: _____

Company: _____

Date: _____

Note: Information submitted on this exhibit, supporting documentation, or other sources of information will be used to determine whether the waiver will be granted. Granting of the waiver is solely within the discretion of the Division of Purchasing and Materials Management.

The ability of competing offerors to obtain qualified MBE/WBE participation will be considered by the Division of Purchasing and Materials Management in determining whether to grant a waiver for any offerors not obtaining the required MBE/WBE participation.

AMENDMENT 003 REVISED ATTACHMENT #1. (The changes are **bolded**.)

ATTACHMENT #1

Drug and Alcohol Testing Annual Estimates

	Estimated Number of Drug/Alcohol Tests Needed	Estimated Number of Pre- Employment Tests for New Hires	Estimated Number of Employees that need to be Trained	Number of Out- of-State Tests Conducted Last Year	Number of Trainings Held Last Year	On-Site Collections Conducted Last Year	Approximate Positive Test Result Rate
Department of Conservation	600	450	10	3- 5 times per month	0 Trainings have been conducted in- house	2-3 times per year, with 15 to 30 specimen collections.	1 – 2%
Department of Corrections**	200 drug 40 alcohol	50 drug	50	Recently began using the service and have had about five.	0, but need one in the East, West, and Central regions of the State	0	The CDL positive rate is < 1%. The internal random testing is 1.4%.
Department of Corrections - Missouri Vocational Enterprises	60	30	0				
Department of Economic Development, Division of Finance and Division of Tourism	0	0	0				
Department of Elementary & Secondary Education – Missouri School for the Blind and Missouri School for the Deaf	Minimal	Minimal	Minimal				

	Estimated Number of Drug/Alcohol Tests Needed	Estimated Number of Pre- Employment Tests for New Hires	Estimated Number of Employees that need to be Trained	Number of Out- of-State Tests Conducted Last Year	Number of Trainings Held Last Year	On-Site Collections Conducted Last Year	Approximate Positive Test Result Rate
Department of Insurance	0	0	0				
Department of Public Safety – Missouri State Highway Patrol	0	0	0				
Department of Public Safety – Missouri State Water Patrol	25	25	12				
Department of Public Safety – Missouri Veterans Home, Cape Girardeau	127	83	10	0	1	0	< 5%
Department of Public Safety – Missouri Veterans Home, Mexico	150	100	12	0	1. An additional training was held in Cameron and training for senior management in Jefferson City.	0	< 5%
Department of Public Safety – Missouri Veterans Home, Mount Vernon	70	140	5	0	1	0	< 5%
Department of Public Safety – Missouri Veterans Home, St. James	60	180	3	0	1	0	< 5%

	Estimated Number of Drug/Alcohol Tests Needed	Estimated Number of Pre-Employment Tests for New Hires	Estimated Number of Employees that need to be Trained	Number of Out-of-State Tests Conducted Last Year	Number of Trainings Held Last Year	On-Site Collections Conducted Last Year	Approximate Positive Test Result Rate
Department of Public Safety – Missouri Veterans Home, St. Louis	105 drug tests for random/for cause/return to work	345	30	0	1	0	< 5%
Department of Public Safety – Missouri Veterans Home, Warrensburg	168	65	0	0	1	0	< 5%
Department of Revenue	0	0	0				
Department of Social Services, Division of General Services	12	2	4				
Department of Transportation	720 Alcohol 3000 Drug	1300	MoDOT conducts their own training	No more than 20-25	0	*** See below	Approximately 5%
Office of Secretary of State	0	0	0				

The estimates were provided in response to a survey conducted of the individual state agencies. The state agencies that did not respond to the survey are not included in the table.

**** The Department of Corrections is considering conducting their own collections in the next 12-18 months and would only use the contract for drug testing and out-of-state collections.**

***** The Missouri Department of Transportation (MoDOT) has 10 district offices throughout the State and a central office in Jefferson City. Each district offices has additional branch locations throughout the district. (See <http://www.modot.mo.gov/> for information related to the locations of the district offices.) During the month of September, 2004, on-site specimen collections were conducted on a total of 299 MoDOT employees at 41 MoDOT locations throughout the State. On average, six on-site specimen collections are conducted per month, per district. MoDOT has on-site specimen collections for groups as large as 30-40 employees. On an annually basis, MoDOT requires alcohol and drug testing on approximately 2619 employees.**

Attachment #2**MISSOURI DEPARTMENT OF TRANSPORTATION COMPUTER INFORMATION**

A comma delimited ASCII file containing the following TEXT fields is required. The order of the fields is not important.

District Number – will be 1 through 10 or “SC”

Name – Provide name if available

SSN – can be in the format “000-00-0000” or “000000000”

Result – will be “Positive”, “Negative”, “Reject”, or “Unequal”

Type of Test – must be either DOT or Non-DOT

Date Collected Year – YYYY

Date Collected Day – DD

Reason – must be one of the following selections: “Pre-Employment”, “Post Accident”, “Random”, “Periodic”, “Return to Work”, “For Cause”, “Unknown”, “Other”, or “Follow Up”

Must be compatible with an internal modem, Hayes 33.3. Line goes out through ASEND (28.8).

STATE OF MISSOURI
DIVISION OF PURCHASING AND MATERIALS MANAGEMENT
TERMS AND CONDITIONS -- REQUEST FOR PROPOSAL

1. TERMINOLOGY/DEFINITIONS

Whenever the following words and expressions appear in a Request for Proposal (RFP) document or any amendment thereto, the definition or meaning described below shall apply.

- a. **Agency and/or State Agency** means the statutory unit of state government in the State of Missouri for which the equipment, supplies, and/or services are being purchased by the **Division of Purchasing and Materials Management (DPMM)**. The agency is also responsible for payment.
- b. **Amendment** means a written, official modification to an RFP or to a contract.
- c. **Attachment** applies to all forms which are included with an RFP to incorporate any informational data or requirements related to the performance requirements and/or specifications.
- d. **Proposal Opening Date and Time** and similar expressions mean the exact deadline required by the RFP for the receipt of sealed proposals.
- e. **Offeror** means the person or organization that responds to an RFP by submitting a proposal with prices to provide the equipment, supplies, and/or services as required in the RFP document.
- f. **Buyer** means the procurement staff member of the DPMM. The **Contact Person** as referenced herein is usually the Buyer.
- g. **Contract** means a legal and binding agreement between two or more competent parties, for a consideration for the procurement of equipment, supplies, and/or services.
- h. **Contractor** means a person or organization who is a successful offeror as a result of an RFP and who enters into a contract.
- i. **Exhibit** applies to forms which are included with an RFP for the offeror to complete and submit with the sealed proposal prior to the specified opening date and time.
- j. **Request for Proposal (RFP)** means the solicitation document issued by the DPMM to potential offerors for the purchase of equipment, supplies, and/or services as described in the document. The definition includes these Terms and Conditions as well as all Pricing Pages, Exhibits, Attachments, and Amendments thereto.
- k. **May** means that a certain feature, component, or action is permissible, but not required.
- l. **Must** means that a certain feature, component, or action is a mandatory condition.
- m. **Pricing Page(s)** applies to the form(s) on which the offeror must state the price(s) applicable for the equipment, supplies, and/or services required in the RFP. The pricing pages must be completed and submitted by the offeror with the sealed proposal prior to the specified proposal opening date and time.
- n. **RSMo (Revised Statutes of Missouri)** refers to the body of laws enacted by the Legislature which govern the operations of all agencies of the State of Missouri. Chapter 34 of the statutes is the primary chapter governing the operations of DPMM.
- o. **Shall** has the same meaning as the word **must**.
- p. **Should** means that a certain feature, component and/or action is desirable but not mandatory.

2. APPLICABLE LAWS AND REGULATIONS

- a. The contract shall be construed according to the laws of the State of Missouri. The contractor shall comply with all local, state, and federal laws and regulations related to the performance of the contract to the extent that the same may be applicable.
- b. To the extent that a provision of the contract is contrary to the Constitution or laws of the State of Missouri or of the United States, the provisions shall be void and unenforceable. However, the balance of the contract shall remain in force between the parties unless terminated by consent of both the contractor and the DPMM.
- c. The contractor must be registered and maintain good standing with the Secretary of State of the State of Missouri and other regulatory agencies, as may be required by law or regulations.
- d. The contractor must timely file and pay all Missouri sales, withholding, corporate and any other required Missouri tax returns and taxes, including interest and additions to tax.
- e. The exclusive venue for any legal proceeding relating to or arising out of the RFP or resulting contract shall be in the Circuit Court of Cole County, Missouri.

3. OPEN COMPETITION/REQUEST FOR PROPOSAL DOCUMENT

- a. It shall be the offeror's responsibility to ask questions, request changes or clarification, or otherwise advise the DPMM if any language, specifications or requirements of an RFP appear to be ambiguous, contradictory, and/or arbitrary, or appear to inadvertently restrict or limit the requirements stated in the RFP to a single source. Any and all communication from offerors regarding specifications, requirements, competitive proposal process, etc., must be directed to the buyer from the DPMM, unless the RFP specifically refers the offeror to another contact. Such communication should be received at least ten calendar days prior to the official proposal opening date.
- b. Every attempt shall be made to ensure that the offeror receives an adequate and prompt response. However, in order to maintain a fair and equitable procurement process, all offerors will be advised, via the issuance of an amendment to the RFP, of any relevant or pertinent information related to the procurement. Therefore, offerors are advised that unless specified elsewhere in the RFP, any questions received less than ten calendar days prior to the RFP opening date may not be answered.
- c. Offerors are cautioned that the only official position of the State of Missouri is that which is issued by the DPMM in the RFP or an amendment thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.
- d. The DPMM monitors all procurement activities to detect any possibility of deliberate restraint of competition, collusion among offerors, price-fixing by offerors, or any other anticompetitive conduct by offerors which appears to violate state and federal antitrust laws. Any suspected violation shall be referred to the Missouri Attorney General's Office for appropriate action.
- e. The RFP is available for viewing and downloading on the state's On-Line Bidding website. Registered vendors are electronically notified or mailed the RFP based on the information maintained in the State of Missouri's vendor database. If any portion of the address is incorrect, the offeror must notify the buyer in writing or update the address themselves on the state's On-Line Bidding website.
- f. The DPMM reserves the right to officially amend or cancel an RFP after issuance.

4. PREPARATION OF PROPOSALS

- a. Offerors **must** examine the entire RFP carefully. Failure to do so shall be at offeror's risk.
- b. Unless otherwise specifically stated in the RFP, all specifications and requirements constitute minimum requirements. All proposals must meet or exceed the stated specifications and requirements.
- c. Unless otherwise specifically stated in the RFP, any manufacturer names, trade names, brand names, information and/or catalog numbers listed in a specification and/or requirement are for informational purposes only and are not intended to limit competition. The offeror may offer any brand which meets or exceeds the specification for any item, but must state the manufacturer's name and model number for any such brands in the proposal. In addition, the offeror shall explain, in detail, (1) the reasons why the proposed equivalent meets or exceeds the specifications and/or requirements and (2) why the proposed equivalent should not be considered an exception thereto. Proposals which do not comply with the requirements and specifications are subject to rejection without clarification.

- d. Proposals lacking any indication of intent to offer an alternate brand or to take an exception shall be received and considered in complete compliance with the specifications and requirements as listed in the RFP.
- e. In the event that the offeror is an agency of state government or other such political subdivision which is prohibited by law or court decision from complying with certain provisions of an RFP, such a offeror may submit a proposal which contains a list of statutory limitations and identification of those prohibitive clauses which will be modified via a clarification conference between the DPMM and the offeror, if such offeror is selected for contract award. The clarification conference will be conducted in order to agree to language that reflects the intent and compliance of such law and/or court order and the RFP. Any such offeror needs to include in the proposal, a complete list of statutory references and citations for each provision of the RFP which is affected by this paragraph.
- f. All equipment and supplies offered in a proposal must be new, of current production, and available for marketing by the manufacturer unless the RFP clearly specifies that used, reconditioned, or remanufactured equipment and supplies may be offered.
- g. Prices shall include all packing, handling and shipping charges FOB destination, freight prepaid and allowed unless otherwise specified in the RFP.
- h. Prices offered shall remain valid for 90 days from proposal opening unless otherwise indicated. If the proposal is accepted, prices shall be firm for the specified contract period.
- i. Any foreign offeror not having an Employer Identification Number assigned by the United States Internal Revenue Service (IRS) must submit a completed IRS Form W-8 prior to or with the submission of their proposal in order to be considered for award.

5. SUBMISSION OF PROPOSALS

- a. Proposals may be submitted by delivery of a hard copy to the DPMM office. Electronic submission of proposals through the State of Missouri's On-Line Bidding website is not available unless stipulated in the RFP. Delivered proposals must be sealed in an envelope or container, and received in the DPMM office located at 301 West High St, Rm 630 in Jefferson City, MO no later than the exact opening time and date specified in the RFP. All proposals must (1) be submitted by a duly authorized representative of the offeror's organization, (2) contain all information required by the RFP, and (3) be priced as required. Hard copy proposals may be mailed to the DPMM post office box address. However, it shall be the responsibility of the offeror to ensure their proposal is in the DPMM office (address listed above) no later than the exact opening time and date specified in the RFP.
- b. The sealed envelope or container containing a proposal should be clearly marked on the outside with (1) the official RFP number and (2) the official opening date and time. Different proposals should not be placed in the same envelope, although copies of the same proposal may be placed in the same envelope.
- c. A proposal submitted electronically may be modified on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may be modified by signed, written notice which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be modified in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to modify a proposal shall not be honored.
- d. A proposal submitted electronically may be canceled on-line prior to the official opening date and time. A proposal which has been delivered to the DPMM office, may only be withdrawn by a signed, written notice or facsimile which has been received by the DPMM prior to the official opening date and time specified. A proposal may also be withdrawn in person by the offeror or its authorized representative, provided proper identification is presented before the official opening date and time. Telephone or telegraphic requests to withdraw a proposal shall not be honored.
- e. When submitting a proposal electronically, the offeror indicates acceptance of all RFP terms and conditions by clicking on the "Submit" button on the Electronic Bid Response Entry form. Offerors delivering a hard copy proposal to DPMM must sign and return the RFP cover page or, if applicable, the cover page of the last amendment thereto in order to constitute acceptance by the offeror of all RFP terms and conditions. Failure to do so may result in rejection of the proposal unless the offeror's full compliance with those documents is indicated elsewhere within the offeror's response.

6. PROPOSAL OPENING

- a. Proposal openings are public on the opening date and at the opening time specified on the RFP document. Only the names of the respondents shall be read at the proposal opening and posted on the state's On-Line Bidding website. The contents of the responses shall not be disclosed at this time.
- b. Proposals which are not received in the DPMM office prior to the official opening date and time shall be considered late, regardless of the degree of lateness, and normally will not be opened. Late proposals may only be opened under extraordinary circumstances in accordance with 1 CSR 40-1.050.

7. PREFERENCES

- a. In the evaluation of proposals, preferences shall be applied in accordance with Chapter 34 RSMo. Contractors should apply the same preferences in selecting subcontractors.
- b. By virtue of statutory authority, a preference will be given to materials, products, supplies, provisions and all other articles produced, manufactured, made or grown within the State of Missouri. Such preference shall be given when quality is equal or better and delivered price is the same or less.
- c. In accordance with Executive Order 98-21, contractors are encouraged and may be required per the RFP to utilize certified minority and women-owned businesses in selecting subcontractors.

8. EVALUATION/AWARD

- a. Any clerical error, apparent on its face, may be corrected by the buyer before contract award. Upon discovering an apparent clerical error, the buyer shall contact the offeror and request clarification of the intended proposal. The correction shall be incorporated in the notice of award. Examples of apparent clerical errors are: 1) misplacement of a decimal point; and 2) obvious mistake in designation of unit.
- b. Any pricing information submitted by an offeror shall be subject to evaluation if deemed by the DPMM to be in the best interest of the State of Missouri.
- c. The offeror is encouraged to propose price discounts for prompt payment or propose other price discounts that would benefit the State of Missouri. However, unless otherwise specified in the RFP, pricing shall be evaluated at the maximum potential financial liability to the State of Missouri.
- d. Awards shall be made to the offeror whose proposal (1) complies with all mandatory specifications and requirements of the RFP and (2) is the lowest and best proposal, considering price, responsibility of the offeror, and all other evaluation criteria specified in the RFP and any subsequent negotiations and (3) complies with Executive Orders 03-27 and 04-09.
- e. In the event all offerors fail to meet the same mandatory requirement in an RFP, DPMM reserves the right, at its sole discretion, to waive that requirement for all offerors and to proceed with the evaluation. In addition, the DPMM reserves the right to waive any minor irregularity or technicality found in any individual proposal.
- f. The DPMM reserves the right to reject any and all proposals.
- g. When evaluating a proposal, the State of Missouri reserves the right to consider relevant information and fact, whether gained from a proposal, from a offeror, from offeror's references, or from any other source.
- h. Any information submitted with the proposal, regardless of the format or placement of such information, may be considered in making decisions related to the responsiveness and merit of a proposal and the award of a contract.
- i. Negotiations may be conducted with those offerors who submit potentially acceptable proposals. Proposal revisions may be permitted for the purpose of obtaining best and final offers. In conducting negotiations, there shall be no disclosure of any information submitted by competing offerors.

- j. Any award of a contract shall be made by notification from the DPMM to the successful offeror. The DPMM reserves the right to make awards by item, group of items, or an all or none basis. The grouping of items awarded shall be determined by DPMM based upon factors such as item similarity, location, administrative efficiency, or other considerations in the best interest of the State of Missouri.
- k. Pursuant to Section 610.021 RSMo, proposals and related documents shall not be available for public review until after a contract is executed or all proposals are rejected.
- l. The DPMM posts all proposal results on the On-line Bidding website for a reasonable period after proposal award and maintains images of all proposal file material for review. Offerors who include an email address with their proposal will be notified of the award results via email.
- m. The DPMM reserves the right to request clarification of any portion of the offeror's response in order to verify the intent of the offeror. The offeror is cautioned, however, that its response may be subject to acceptance or rejection without further clarification.
- n. Any proposal award protest must be received within ten (10) calendar days after the date of award in accordance with the requirements of 1 CSR 40-1.050 (10).
- o. The final determination of contract(s) award shall be made by DPMM.

9. CONTRACT/PURCHASE ORDER

- a. By submitting a proposal, the offeror agrees to furnish any and all equipment, supplies and/or services specified in the RFP, at the prices quoted, pursuant to all requirements and specifications contained therein.
- b. A binding contract shall consist of: (1) the RFP, amendments thereto, and/or Best and Final Offer (BAFO) request(s) with RFP changes/additions, (2) the contractor's proposal including the contractor's BAFO, and (3) DPMM's acceptance of the proposal by "notice of award" or by "purchase order."
- c. A notice of award does not constitute an authorization for shipment of equipment or supplies or a directive to proceed with services. Before providing equipment, supplies and/or services, the contractor must receive a properly authorized purchase order.
- d. The contract expresses the complete agreement of the parties and performance shall be governed solely by the specifications and requirements contained therein. Any change, whether by modification and/or supplementation, must be accomplished by a formal contract amendment signed and approved by and between the duly authorized representative of the contractor and the DPMM or by a modified purchase order prior to the effective date of such modification. The contractor expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment or modification.

10. INVOICING AND PAYMENT

- a. The State of Missouri does not pay state or federal taxes unless otherwise required under law or regulation.
- b. The statewide financial management system has been designed to capture certain receipt and payment information. Therefore, each invoice submitted must reference the purchase order number and must be itemized in accordance with items listed on the purchase order. Failure to comply with this requirement may delay processing of invoices for payment.
- c. The contractor shall not transfer any interest in the contract, whether by assignment or otherwise, without the prior written consent of the DPMM.
- d. Payment for all equipment, supplies, and/or services required herein shall be made in arrears unless otherwise indicated in the RFP.
- e. The State of Missouri assumes no obligation for equipment, supplies, and/or services shipped or provided in excess of the quantity ordered. Any unauthorized quantity is subject to the state's rejection and shall be returned at the contractor's expense.
- f. All invoices for equipment, supplies, and/or services purchased by the State of Missouri shall be subject to late payment charges as provided in Section 34.055 RSMo.

11. DELIVERY

Time is of the essence. Deliveries of equipment, supplies, and/or services must be made no later than the time stated in the contract or within a reasonable period of time, if a specific time is not stated.

12. INSPECTION AND ACCEPTANCE

- a. No equipment, supplies, and/or services received by an agency of the state pursuant to a contract shall be deemed accepted until the agency has had reasonable opportunity to inspect said equipment, supplies, and/or services.
- b. All equipment, supplies, and/or services which do not comply with the specifications and/or requirements or which are otherwise unacceptable or defective may be rejected. In addition, all equipment, supplies, and/or services which are discovered to be defective or which do not conform to any warranty of the contractor upon inspection (or at any later time if the defects contained were not reasonably ascertainable upon the initial inspection) may be rejected.
- c. The State of Missouri reserves the right to return any such rejected shipment at the contractor's expense for full credit or replacement and to specify a reasonable date by which replacements must be received.
- d. The State of Missouri's right to reject any unacceptable equipment, supplies, and/or services shall not exclude any other legal, equitable or contractual remedies the state may have.

13. WARRANTY

- a. The contractor expressly warrants that all equipment, supplies, and/or services provided shall: (1) conform to each and every specification, drawing, sample or other description which was furnished to or adopted by the DPMM, (2) be fit and sufficient for the purpose expressed in the RFP, (3) be merchantable, (4) be of good materials and workmanship, and (5) be free from defect.
- b. Such warranty shall survive delivery and shall not be deemed waived either by reason of the state's acceptance of or payment for said equipment, supplies, and/or services.

14. CONFLICT OF INTEREST

- a. Officials and employees of the state agency, its governing body, or any other public officials of the State of Missouri must comply with Sections 105.452 and 105.454 RSMo regarding conflict of interest.
- b. The contractor hereby covenants that at the time of the submission of the proposal the contractor has no other contractual relationships which would create any actual or perceived conflict of interest. The contractor further agrees that during the term of the contract neither the contractor nor any of its employees shall acquire any other contractual relationships which create such a conflict.

15. REMEDIES AND RIGHTS

- a. No provision in the contract shall be construed, expressly or implied, as a waiver by the State of Missouri of any existing or future right and/or remedy available by law in the event of any claim by the State of Missouri of the contractor's default or breach of contract.
- b. The contractor agrees and understands that the contract shall constitute an assignment by the contractor to the State of Missouri of all rights, title and interest in and to all causes of action that the contractor may have under the antitrust laws of the United States or the State of Missouri for which causes of action have accrued or will accrue as the result of or in relation to the particular equipment, supplies, and/or services purchased or procured by the contractor in the fulfillment of the contract with the State of Missouri.

16. CANCELLATION OF CONTRACT

- a. In the event of material breach of the contractual obligations by the contractor, the DPMM may cancel the contract. At its sole discretion, the DPMM may give the contractor an opportunity to cure the breach or to explain how the breach will be cured. The actual cure must be completed within no more than 10 working days from notification, or at a minimum the contractor must provide DPMM within 10 working days from notification a written plan detailing how the contractor intends to cure the breach.
- b. If the contractor fails to cure the breach or if circumstances demand immediate action, the DPMM will issue a notice of cancellation terminating the contract immediately.
- c. If the DPMM cancels the contract for breach, the DPMM reserves the right to obtain the equipment, supplies, and/or services to be provided pursuant to the contract from other sources and upon such terms and in such manner as the DPMM deems appropriate and charge the contractor for any additional costs incurred thereby.
- d. The contractor understands and agrees that funds required to fund the contract must be appropriated by the General Assembly of the State of Missouri for each fiscal year included within the contract period. The contract shall not be binding upon the state for any period in which funds have not been appropriated, and the state shall not be liable for any costs associated with termination caused by lack of appropriations.

17. COMMUNICATIONS AND NOTICES

Any notice to the contractor shall be deemed sufficient when deposited in the United States mail postage prepaid, transmitted by facsimile, transmitted by e-mail or hand-carried and presented to an authorized employee of the contractor.

18. BANKRUPTCY OR INSOLVENCY

- a. Upon filing for any bankruptcy or insolvency proceeding by or against the contractor, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, the contractor must notify the DPMM immediately.
- b. Upon learning of any such actions, the DPMM reserves the right, at its sole discretion, to either cancel the contract or affirm the contract and hold the contractor responsible for damages.

19. INVENTIONS, PATENTS AND COPYRIGHTS

The contractor shall defend, protect, and hold harmless the State of Missouri, its officers, agents, and employees against all suits of law or in equity resulting from patent and copyright infringement concerning the contractor's performance or products produced under the terms of the contract.

20. NON-DISCRIMINATION AND AFFIRMATIVE ACTION

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall agree not to discriminate against recipients of services or employees or applicants for employment on the basis of race, color, religion, national origin, sex, age, disability, or veteran status. If the contractor or subcontractor employs at least 50 persons, they shall have and maintain an affirmative action program which shall include:

- a. A written policy statement committing the organization to affirmative action and assigning management responsibilities and procedures for evaluation and dissemination;
- b. The identification of a person designated to handle affirmative action;
- c. The establishment of non-discriminatory selection standards, objective measures to analyze recruitment, an upward mobility system, a wage and salary structure, and standards applicable to layoff, recall, discharge, demotion, and discipline;
- d. The exclusion of discrimination from all collective bargaining agreements; and
- e. Performance of an internal audit of the reporting system to monitor execution and to provide for future planning.

If discrimination by a contractor is found to exist, the DPMM shall take appropriate enforcement action which may include, but not necessarily be limited to, cancellation of the contract, suspension, or debarment by the DPMM until corrective action by the contractor is made and ensured, and referral to the Attorney General's Office, whichever enforcement action may be deemed most appropriate.

21. AMERICANS WITH DISABILITIES ACT

In connection with the furnishing of equipment, supplies, and/or services under the contract, the contractor and all subcontractors shall comply with all applicable requirements and provisions of the Americans with Disabilities Act (ADA).

22. FILING AND PAYMENT OF TAXES

The commissioner of administration and other agencies to which the state purchasing law applies shall not contract for goods or services with a vendor if the vendor or an affiliate of the vendor makes sales at retail of tangible personal property or for the purpose of storage, use, or consumption in this state but fails to collect and properly pay the tax as provided in chapter 144, RSMo. For the purposes of this section, "affiliate of the vendor" shall mean any person or entity that is controlled by or is under common control with the vendor, whether through stock ownership or otherwise. Therefore offeror's failure to maintain compliance with chapter 144, RSMo may eliminate their proposal from consideration for award.

23. TITLES

Titles of paragraphs used herein are for the purpose of facilitating reference only and shall not be construed to infer a contractual construction of language.